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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,332	11/16/2000	Karen Ann Sheppard	10236	4336

23455 7590 11/14/2003

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EXAMINER

AHMED, SHEEBA

ART UNIT PAPER NUMBER

1773

DATE MAILED: 11/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

CLD16

**Advisory Action**

Application No.

09/714,332

Applicant(s)

SHEPPARD ET AL.

Examiner

Sheeba Ahmed

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--The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

THE REPLY FILED 27 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): rejection of claim 34.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: 34.

Claim(s) rejected: 26,30-33 and 35-47.

Claim(s) withdrawn from consideration: None.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

1. The Response After Final submitted on October 27, 2003 has been entered in the above-identified application but does not place the application in condition for allowance.

Applicants traverse the rejection of claims 31-34, 36-44, and 46 under 35 U.S.C. 102(e) as being anticipated by Sheppard et al. (US 6,455,150 B1), the rejection of claims 26 and 35 under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US 6,455,150 B1) in view of Park et al. (US 4,632,869), the rejection of claim 30 under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US 6,455,150 B1), and the rejection of claims 45 and 47 under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US 6,455,150 B1) in view of Migliorini (US 6,495,266 B1) and submit that the silicone oils disclosed by Sheppard are fundamentally different than the claimed silicone gums given that the former has lower viscosities than the latter. The Applicants specifically state that claim 34 expressly defines the viscosity characteristics of silicone gums.

However, with regards to the rejection of 31-33, 36-44, and 46 under 35 U.S.C. 102(e) as being anticipated by Sheppard et al. (US 6,455,150 B1), the rejection of claims 26 and 35 under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US 6,455,150 B1) in view of Park et al. (US 4,632,869), the rejection of claim 30 under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US 6,455,150 B1), and the rejection of claims 45 and 47 under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US 6,455,150 B1) in view of Migliorini (US 6,495,266 B1), the Examiner maintains that the limitations of the claimed invention are met given that the

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broad recitation of a "silicone gum" does not preclude the viscosity of such a material from being between 350 to 100,000 centistokes (as disclosed by Sheppard et al.).

On the other hand, Applicants arguments with regards to claim 34 are deemed persuasive and the rejection of claim 34 under 35 U.S.C. 102(e) as being anticipated by Sheppard et al. (US 6,455,150 B1) is hereby withdrawn. Hence, claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (703)305-0594. The examiner can normally be reached on Mondays and Thursdays from 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (703)308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703)305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5665.

SA

Sheeba Ahmed  
November 11, 2003

  
D. S. NAKARANI  
PRIMARY EXAMINER, Acting SPS